UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BBK TOBACCO & FOODS, LLP, D.B.A. HBI INTERNATIONAL, Plaintiff, v. 7TH ST VILLAGE FARM INC.; EAST VILLAGE FARM & GROCERY, INC.; VILLAGE CONVENIENCE; 2ND AVENUE CONVENIENCE STORE INC.; GALAXY WHOLESALE; CHOLULA II DELI & GROCERY INC.; WINDHORSE GAS STATION, INC.; ESSA DELI GROCERY CORP; ALPHABET CITY INC. I; NILU U. PATEL; PATEL, NILU U.; JOHN DOES 1-10; AND XYZ COMPANIES 1-10, Defendants.	**CIVIL ACTION NO. 17-cv-4079** **COMPLAINT** **JURY TRIAL DEMANDED**

Plaintiff BBK Tobacco & Foods, LLP, d.b.a. HBI International ("HBI"), by and through its attorneys, brings this action against Defendants 7th St Village Farm Inc.; East Village Farm & Grocery, Inc.; Village Convenience; 2nd Avenue Convenience Store Inc.; Galaxy Wholesale; Cholula II Deli & Grocery Inc.; Windhorse Gas Station, Inc.; Essa Deli Grocery Corp; Alphabet City Inc. I; Nilu U. Patel; Patel, Nilu U.; John Does #1-#10, and XYZ Companies #1-#10; and alleges as follows:

1. This is an anti-counterfeiting action against those who manufacture, purchase, sell, or otherwise distribute counterfeit RAW-brand smoking products and accessories.

2. The Plaintiff, HBI, owns a family of registered RAW® trademarks and nationwide common-law rights, and is the exclusive U.S. source of all authentic RAW-brand rolling papers, rolling trays, and accessory products for authorized sales of the products.

3. Starting in March 2017, HBI purchased samples of purported RAW products from Defendants at their retail stores in Manhattan and Brooklyn, New York. After each purchase, HBI conclusively determined that the samples are fake, inferior knockoffs.

4. The physical and quality differences are obvious to HBI, which designed, manufactures, and markets RAW® rolling papers and other products as "natural," "unrefined," "organic," and made from the "purest natural fibers." The counterfeit versions appear cheap, are made from unknown materials of unknown origin, and likely are not all-natural, unrefined, organic[1], or made from pure natural fibers. They also have not been subject to any of HBI's quality control standards. Thus, HBI has irretrievably lost the ability to control the quality of products distributed under its brand.

5. HBI brings this lawsuit for:

a. Trademark infringement, in violation of Section 32 of the Lanham Act (15 U.S.C. § 1114);

b. Trademark infringement, false designation of origin, and unfair competition, in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a));

c. Deceptive acts and practices, in violation of New York General Business Law § 349; and

d. Unfair competition, in violation of New York common law.

[1] "Organic" is not a defined term in the United States beyond the agricultural products context. However, RAW® branded rolling papers meet the high organic standards of the European Union.

THE PARTIES

The Plaintiff

6. Plaintiff HBI is an Arizona limited liability partnership having an address at 3401 West Papago Street, Phoenix, Arizona 85009.

The Defendants

7. Defendant 7th St Village Farm Inc. is a New York corporation having an address and retail store at 113 1st Avenue, New York, New York 10003.

8. Defendant East Village Farm & Grocery, Inc. is a New York corporation having an address and retail store at 69 Second Avenue, New York, New York 10003.

9. Upon information and belief, Defendant Village Convenience is a New York corporation having an address and retail store at 124 Second Avenue, New York, New York 10003.

10. Defendant 2nd Avenue Convenience Store Inc. is a New York corporation having an address and retail store at 82 Second Avenue, New York, New York 10003.

11. Upon information and belief, Defendant Galaxy Wholesale is a New York corporation having an address and retail store at 745 Myrtle Ave, Brooklyn, New York 11205.

12. Defendant Cholula II Deli & Grocery Inc. is a New York corporation having an address and retail store at 633 Myrtle Ave, Brooklyn, New York 11205.

13. Defendant Windhorse Gas Station, Inc. is a New York corporation having an address and retail store at 569 Myrtle Avenue, Brooklyn, New York 11205.

14. Defendant Essa Deli Grocery Corp is a New York corporation having an address and retail store at 66 Avenue C, New York, New York 10009.

15. Defendant Alphabet City Inc. I is a New York corporation having an address and retail store at 54 Avenue C, New York, New York 10009.

16. Upon information and belief, a New York citizen named Nilu U. Patel owns and operates a retail newsstand of the same name, "Patel, Nilu U.," at N/E/C 6 Avenue West 9 Street, New York, New York 10011. North Atlantic sues Defendant Patel, Nilu U. in its corporate capacity as a newsstand ("Patel, Nilu U. Newsstand"), as that is the name that appears on the newsstand's New York City business license.

The John Doe and XYZ Company Defendants

17. HBI believes that other individuals and companies assist the above-named Defendants in their counterfeiting. HBI does not know these individuals' or companies' true identities or capacities. Therefore, HBI sues them as Defendants John Does #1–10 and XYZ Companies #1–10, inclusive, and will amend this Complaint when/if it ascertains their true identities and capacities.

JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction over HBI's Lanham Act claims under 28 U.S.C. §§ 1331, 1338, and 15 U.S.C. § 1121.

19. This Court has subject matter jurisdiction over HBI's New York law claims under 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367(a).

20. Personal jurisdiction is proper in New York because each Defendant resides or is domiciled here; has its registered address and principal place of business here; or has had continuous, systematic, and substantial contacts within New York, including doing business in New York, being registered to do business in New York, and directing sales of counterfeit RAW-brand products to New York consumers through New York-based retail stores.

21. Venue is proper in this judicial district under 28 U.S.C. § 1391, in that a majority of Defendants reside here and a substantial portion of the events giving rise to HBI's claims occurred here.

FACTS

HBI's Products and RAW® Trademarks

22. HBI is in the business of designing, manufacturing, importing, marketing, and selling "RAW"-brand smoking products and accessories, including RAW-brand rolling papers. *See* www.rawthentic.com.

23. Traditionally, rolling papers are used by consumers who prefer to roll their own cigarettes, rather than purchase pre-made ones from large-scale manufacturers.

24. Consumers may prefer to "roll their own" cigarettes for many reasons, including:

a. They view pre-made ones as artificial, over-processed, or environmentally unfriendly;

b. They distrust large tobacco companies;

c. They view hand-rolled cigarettes as more authentic; or

d. They appreciate the increased control over the finished product in terms of size, flavor, contents, burn rate, and other significant smoking qualities.

25. Drawing on these preferences, in the early 2000s, HBI set out to create a unique brand of natural, unrefined rolling papers manufactured in the birthplace of rolling paper: Alcoy, Spain.

26. HBI determined to brand its products with the suggestive mark "RAW."

27. HBI's RAW-brand rolling papers come in several varieties differing in thickness, quality of paper, size, and the like.

28. One variety is the popular RAW® King Size Slim Rolling Papers, which HBI sells in both "Classic", "Organic", and the new "Black" versions, with 32 paper leaves per pack, 50 packs per box ("RAW® KSS").

29. All authentic RAW-brand rolling papers are:

a. Made in Alcoy, Spain, at one of the world's oldest cigarette paper factories;

b. Made from high-quality "raw" ingredients (such as hemp or wood pulp);

c. Made using minimally processed, unbleached ingredients, which give the rolling papers their characteristic translucent brown color;

d. Use only natural hemp or acacia gum adhesives, which provide an effective, natural seal; and

e. Contain only natural fibers, which are visible to the naked eye, and which impact burn rate and taste.

30. In 2005, HBI mass launched RAW-brand rolling papers and smoking products in the United States. Certain RAW products were available even earlier, with RAW-brand rolling papers first distributed in 2002.

31. By 2009, sales of RAW-brand products had skyrocketed.

32. Today, HBI owns a lifestyle brand centered around smoking, smoking culture, and the particular culture that consumers of RAW-brand smoking products enjoy.

33. HBI has built a strong social media presence and following on websites such as Twitter (https://twitter.com/rawlife247) (over 5,400 tweets and over 24,800 followers); Instagram (https://www.instagram.com/rawlife247/) (over 5,100 posts and approximately 1.2 million followers); Facebook (https://www.facebook.com/RawRollingPaper) (thousands of posts and over

103,000 followers); and YouTube (https://www.youtube.com/user/RawPapersOfficial) (dozens of videos and over 36,000 subscribers).

34. These websites feature handles and the use of hashtags such as #rawlife and #rawlife247.

35. These websites also underscore the characteristic features of RAW-brand products that distinguish them from the competition.

36. HBI also operates a website at www.rawthentic.com, which is used to advertise RAW products and promote the RAW lifestyle/brand.

37. HBI also markets and sells merchandise, such as apparel, featuring the stylized RAW logo and borrowing design elements from RAW-brand product packaging.

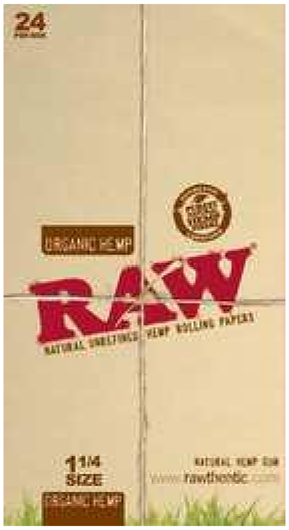
38. There have been many popular culture references to RAW-brand smoking products, including by pop-culture celebrities and musicians who regularly use the products.

39. Because of this and HBI's investments, HBI's RAW-brand smoking products and brand have become famous.

40. Certain RAW® Trademarks (defined below) have become legally famous due to HBI's exclusive, lengthy, and extensive use of those marks on strong-selling HBI products, especially rolling papers.

41. HBI's family of registered and common-law RAW® trademarks are numerous; cover a wide variety of goods and services; appear on the Principal Register in the United States Patent and Trademark Office; are each strong and distinctive; and are each entitled to nationwide protection.

42. Additionally, the following registered "RAW® Trademarks" appear alone or in combination on HBI's best-selling varieties of RAW-brand rolling paper products (including RAW® KSS):

MARK	REG. NO.	NICE CLASS	INTERNATIONAL CLASSIFICATION – DESCRIPTION OF GOODS
RAW	2989221	34	Cigarette Rolling papers made from processed paper, plastic or metal hand held cigarette rolling machines
RAW	4412202	34	Cigar lighters; Cigarette lighters not for land vehicles; Lighters for smokers; Lighters not of precious metal; Non-electric cigar lighters not of precious metal; Tobacco pouches, cigar humidors, Rolling Paper Cases, shredders for tobacco and smokeable herbs not for industrial use; Cigarette Rolling Trays, Cigar Rolling Trays; tobacco storage boxes not of precious metal; Pocket apparatus for rolling cigarettes, namely, Scoops to assist in the rolling of one's own cigarette
RAW ARTESANO	4325822	34	CIGARETTE ROLLING PAPERS, CIGARETTE FILTERS, CIGARETTE ROLLING TRAYS
	4647824	34	Cigarette paper; Cigarette papers; Cigarette rolling papers; all of the foregoing made from natural, organic hemp

MARK	REG. NO.	NICE CLASS	INTERNATIONAL CLASSIFICATION – DESCRIPTION OF GOODS
RAW ORGANIC HEMP AUTHENTIC PUREST NATURAL HEMP FIBERS UNREFINED RAY NATURAL UNREFINED HEMP ROLLING PAPERS			

See Exhibit A (consisting of true and correct copies of USPTO records reflecting Principal Register registrations of the RAW® Trademarks).

43. Since their respective first-use dates, the RAW® Trademarks have been continuously and exclusively used by HBI on, and in connection with, superior quality rolling paper products and smoking accessories.

44. HBI imports all authentic RAW-brand rolling paper products from Alcoy, Spain, after which, HBI subjects them to strict quality control standards.

45. If the authentic products meet with HBI's standards, then HBI distributes them to wholesale stores and retailers throughout the United States. The retail stores, in turn, sell products directly to consumers.

46. Because of HBI's sales history, and because of factors such as HBI's established social media presence, unique branding and marketing scheme, and commitment to quality and naturalness, HBI has developed substantial goodwill and a reputation among U.S. consumers as the exclusive original source of high-quality RAW-brand rolling papers and smoking accessories in the United States.

47. HBI has also become well known, nationwide, as the exclusive and only source of authentic RAW-brand products, including rolling papers, and cigar and cigarette rolling trays.

48. Thus, the RAW® Trademarks have become legally famous for rolling papers, cigar and cigarette rolling trays, and accessory products.

49. The RAW® Trademarks enjoy the highest level of protection under Federal and equivalent state trademark law.

HBI's Highly Distinctive Product Packaging

50. HBI's product packaging is highly distinctive.

51. As illustrated below, the packaging for HBI's authentic RAW® KSS, and similar products, features design elements such as:

a. use of the colors red, brown, and tan;

b. one or more of the RAW® Trademarks;

c. the term "RAW," depicted in large, red, stylized font, set at an angle in the center of the packaging design and having a piece of twine wrapped about the same;

d. to the right of the term "RAW," the term "KING SIZE SLIM," directly below a crown design, depicted in brown font/coloring;

e. to the left of the term "RAW," a brown circular element with a tan center, containing the terms "AUTHENTIC" and "UNREFINED" in tan font within the brown outer ring, and either the term "PUREST NATURAL FIBERS" (on the Classic variety) or the term "PUREST NATURAL HEMP FIBERS" (on the Organic variety) in brown font within the ring's center;

f. above the term "RAW," either the term "CLASSIC" or "ORGANIC HEMP" inside a brown rectangle that exposes the underlying tan color for the letters;

g. below the term "RAW," the term "NATURAL UNREFINED ROLLING PAPERS" (on the Classic variety) or the term "NATURAL UNREFINED HEMP

ROLLING PAPERS" (on the Organic variety) in brown font;

h. overlaying the aforementioned design elements, a raster image (i.e., photograph) of twine in brown and tan coloring, crossing the packaging vertically and horizontally, with a knot in the center of the packaging design; and

i. inside the packs:

   i. the trademark/slogan "THE NATURAL WAY TO ROLL";

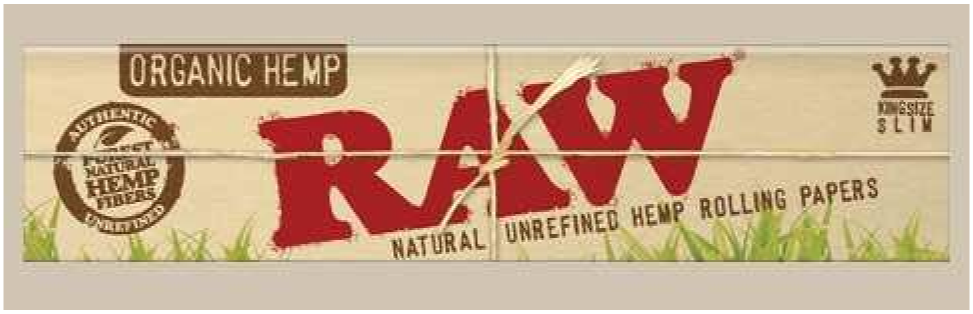
   ii. the hashtag "#RAWLIFE";

   iii. the website address "WWW.RAWTHENTIC.COM"; and

   iv. The wording "NATURAL GUM PLEASE MOISTEN GENTLY" in light tan font, set at an angle within a darker tan banner.

In addition, the RAW® Organic King Size Slim packaging features green grass design elements on the front, back, and insides of the packs, and on the boxes (all of the foregoing design elements (a)-(i), together with the overall look-and-feel of the packaging, the "RAW® KSS Trade Dress"); *see also* Exhibit B (8 ½" x 11" photographs of the RAW® KSS Trade Dress, Classic and Organic versions):

CLASSIC
NATURAL HEMP GUM
AUTHENTIC
PUREST
NATURAL
FIBERS
UNREFINED
RAW
KINGSIZE
SLIM
NATURAL UNREFINED ROLLING PAPERS


ORGANIC HEMP
RAW
NATURAL UNREFINED HEMP ROLLING PAPERS
AUTHENTIC
PUREST NATURAL HEMP FIBERS
UNREFINED
KINGSIZE SLIM

CLASSIC
RAW
NATURAL UNREFINED ROLLING PAPERS
AUTHENTIC
PUREST NATURAL FIBERS
UNREFINED
Black
KINGSIZE SLIM

Pack (top and front view) (RAW® Trademarks and RAW® KSS Trade Dress)

RAW CLASSIC
RAW® is made with passion in the town where rolling paper was first invented in 1650 by people who can trace their lineage back to the original inventors.
RAW® is not just paper. It is art - every sheet is unique.
THE NATURAL WAY TO ROLL™
RAW
www.rawthentic.com
32 LEAVES PER PACK

100% WIND POWERED
RAW ORGANIC HEMP
RAW® Organic Hemp papers are made with a natural hemp gum, designed to match the burn rate of the unrefined organic hemp paper. Each sheet is watermarked with our proprietary Criss-Cross imprint which helps prevent runs and maintains the smoothest burn.
THE NATURAL WAY TO ROLL™
Natural gum Please moisten gently
RAW
FEUILLE DE DEPART - VEUILLEZ RETIRER
DECKBLATT - BITTE ENTFERNEN
RETIRAR PRIMERA HOJA POR FAVOR
www.rawthentic.com
32 LEAVES
NATURAL UNREFINED HEMP ROLLING PAPERS

Pack (inside view) (RAW® Trademarks and RAW® KSS Trade Dress)

CLASSIC
PUREST NATURAL FIBERS
RAW
NATURAL UNREFINED ROLLING PAPERS
KINGSIZE
SLIM

50
PER BOX
CLASSIC
RAW
NATURAL UNREFINED ROLLING PAPERS
KINGSIZE
SLIM
CLASSIC
NATURAL HEMP GUM
www.rawthentic.com

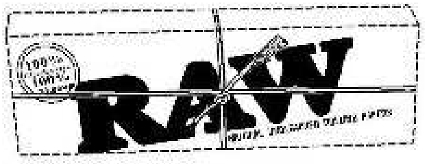
50
PER BOX
PUREST NATURAL HEMP FIBERS
ORGANIC HEMP
RAW
NATURAL UNREFINED HEMP ROLLING PAPERS
KINGSIZE
SLIM
ORGANIC HEMP
NATURAL HEMP GUM
www.rawthentic.com

Box (front and top view) (RAW® Trademarks and RAW® KSS Trade Dress)

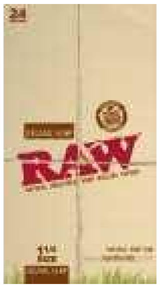
52. At all relevant times, HBI has used the RAW® KSS Trade Dress for rolling paper products in commerce in the United States.

53. The elements featured in the RAW® KSS Trade Dress are arbitrary, non-functional, and distinctive, as is the overall look-and-feel of the RAW packaging.

54. HBI also owns the following Principal Register registration, Reg. No. 3422929, for "Cigarette rolling papers":



55. HBI also owns U.S. Registration No. 4647824 registered for "Cigarette paper; Cigarette papers; Cigarette rolling papers; all of the foregoing made from natural, organic hemp":



56. The foregoing U.S. Registration Nos. 3422929 and 4647824 (together, the "Registered RAW® Trade Dress") are distinctive overall, and consist of design elements that are each arbitrary, non-functional, and distinctive. *See* Exhibit C.

57. The RAW® KSS Trade Dress and Registered RAW® Trade Dress (together, the "RAW® Trade Dresses") are consulted when designing RAW-brand products other than rolling papers, such as cigar and cigarette rolling trays, which gives them an equally distinctive look and feel and makes their connection to RAW and HBI clear to consumers.

58. The RAW® Trade Dresses and constituent design elements have been extensively and continuously used by HBI, are inherently distinctive, and have become distinctive through the acquisition of secondary meaning.

59. Upon information and belief, U.S. consumers who see the RAW® Trade Dresses immediately associate them with HBI as a source identifier and do not associate them with any other source.

60. The RAW® Trade Dresses are legally protected from counterfeiting and other forms of trademark infringement, and from conduct or products that create a likelihood of confusion.

Defendants' Willful Infringing Activities

61. Based on HBI's investigation to date, Defendants are engaged in a widespread, unlawful scheme of acquiring and selling, or otherwise distributing, counterfeit RAW-brand rolling papers and other products, including RAW® KSS.

62. Additionally, Defendant Galaxy Wholesale acquired and sold counterfeit RAW® cigar and cigarette rolling trays, which bear one or more RAW® Trademarks and share distinctive design elements with the RAW® KSS Trade Dress and Registered RAW® Trade Dress.

63. Upon information and belief, all Defendants have been acquiring and selling or otherwise distributing other counterfeit RAW® brand products as well.

64. Upon information and belief, Defendants' misconduct in engaging in this counterfeiting is willful.

65. The key to Defendants' scheme is the sale of products that use packaging that simulates the packaging of authentic RAW-brand products distributed by HBI, namely, packaging that bears virtually identical reproductions of the RAW® Trademarks and that looks confusingly

similar to the RAW® KSS Trade Dress and Registered RAW® Trade Dress.

66. Although authentic and counterfeit products may appear similar at first glance, a close inspection reveals numerous differences, including differences in:

a. letter tracking (the space between characters in written text);

b. printing and paper quality;

c. coloring/saturation;

d. font; and

e. watermarks.

67. Some counterfeit RAW® rolling papers display typographical errors.

68. Some counterfeit RAW® rolling papers are sold without start sheets (which are present in packs of all authentic RAW® rolling papers produced and sold by HBI).

69. Some counterfeit RAW® rolling papers are sold with incorrect color start sheets.

70. Additionally, authentic RAW® rolling papers distributed by HBI are subject to strict quality control standards.

71. By contrast, counterfeit RAW® rolling papers are not subject to any known quality control standards.

72. HBI cannot tell what conditions the counterfeit products have been subjected to, and it also cannot vouch for the quality or naturalness of the ingredients used to manufacture them, which upon information and belief, is an extremely important consideration for HBI's consumers.

73. The packaging for counterfeit RAW® rolling papers states that such products are manufactured in "Alcoy, Spain."

74. The counterfeit RAW® rolling papers and packaging are manufactured elsewhere, outside of HBI's control.

75. None of the Defendants herein are authorized to sell or distribute any counterfeit or infringing products bearing the RAW® Trademarks, or embodying the RAW® KSS Trade Dress, or Registered RAW® Trade Dress.

76. No Defendant is a licensee or sub-licensee of any RAW trademark (registered or common-law), or trade dress (registered or common-law).

77. HBI has nonetheless caught Defendants selling such unauthorized, unlicensed, counterfeit products, in violation of HBI's rights, and to the detriment of New York consumers.

Defendants' Sale/Distribution of Counterfeit Products

78. Defendants have been willfully selling and distributing counterfeit RAW® brand products to New York consumers.

79. Defendants have sold packs of confirmed counterfeit RAW® KSS to undercover HBI representatives.

Defendant 7th Street Village Farm

80. On March 4, 2017, HBI representatives visited the 7th Street Village Farm retail store and obtained two (2) packs of purported RAW® KSS from Defendant 7th Street Village Farm.

81. HBI representatives sent the particular packs of purported RAW® KSS to HBI headquarters.

82. HBI confirmed through inspection and analysis that the packs purchased from Defendant 7th Street Village Farm and their contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant East Village Farm & Grocery, Inc.

83. On March 4, 2017, HBI representatives visited the East Village Farm & Grocery, Inc. retail store and obtained two (2) packs of purported RAW® KSS from Defendant East Village Farm & Grocery, Inc.

84. HBI representatives sent the particular packs of purported RAW® KSS to HBI headquarters.

85. HBI confirmed through inspection and analysis that the packs purchased from Defendant East Village Farm & Grocery, Inc. and their contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant Village Convenience

86. On March 4, 2017, HBI representatives visited the Village Convenience retail store and obtained one (1) pack of purported RAW® KSS from Defendant Village Convenience.

87. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

88. HBI confirmed through inspection and analysis that the pack purchased from Defendant Village Convenience and its contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant 2nd Avenue Convenience Store Inc.

89. On March 3, 2017, HBI representatives visited the 2nd Avenue Convenience Store Inc. retail store and obtained one (1) pack of purported RAW® KSS from Defendant 2nd Avenue Convenience Store Inc.

90. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

91. HBI confirmed through inspection and analysis that the pack purchased from Defendant 2nd Avenue Convenience Store Inc. and its contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant Galaxy Wholesale

92. On March 2, 2017, HBI representatives visited the Galaxy Wholesale retail store and obtained, among other items, (a) one (1) pack of purported RAW® KSS, and (b) one (1) RAW® cigarette rolling tray, from Defendant Galaxy Wholesale.

93. HBI representatives sent the particular packs of purported RAW® KSS and the rolling tray to HBI headquarters.

94. HBI confirmed through inspection and analysis that the packs purchased from Defendant Galaxy Wholesale and their contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

95. HBI confirmed that the RAW® rolling tray was counterfeit, because authentic RAW® rolling trays are not offered in the particular size and shape of the purchased tray. Nevertheless, the purported RAW® rolling tray displayed the RAW® Trademarks and numerous distinctive design elements present in the RAW® KSS Trade Dress and Registered RAW® Trade Dress, including the large, red, stylized term "RAW" and the realistic twine design overlaying all other design elements.

Defendant Cholula II Deli & Grocery Inc.

96. On March 2, 2017, HBI representatives visited the Cholula II Deli & Grocery Inc. retail store and obtained one (1) pack of purported RAW® KSS from Defendant Cholula II Deli & Grocery Inc.

97. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

98. HBI confirmed through inspection and analysis that the pack purchased from Defendant Cholula II Deli & Grocery Inc. and its contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant Windhorse Gas Station, Inc.

99. On March 2, 2017, HBI representatives visited the Windhorse Gas Station, Inc. retail store and obtained one (1) pack of purported RAW® KSS from Defendant Windhorse Gas Station, Inc.

100. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

101. HBI confirmed through inspection and analysis that the pack purchased from Defendant Windhorse Gas Station, Inc. and its contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant Essa Deli Grocery Corp.

102. On March 17, 2017, HBI representatives visited the Essa Deli Grocery Corp. retail store and obtained one (1) pack of purported RAW® KSS from Defendant Essa Deli Grocery Corp.

103. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

104. HBI confirmed through inspection and analysis that the pack purchased from Defendant Essa Deli Grocery Corp. and its contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendant Alphabet City Inc. I

105. On March 17, 2017, HBI representatives visited the Alphabet City Inc. I retail store and obtained one (1) pack of purported RAW® KSS from Defendant Alphabet City Inc. I.

106. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

107. HBI confirmed through inspection and analysis that the pack purchased from Defendant Alphabet City Inc. I and its contents are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the Registered RAW® Trade Dress.

Defendants Nilu U. Patel and Patel, Nilu U. Newsstand

108. On May 10, 2017, HBI representatives visited the newsstand on the northeast corner of 6th Avenue and West 9th Street in New York, New York, which upon information and belief, is named "Patel, Nilu U." and is owned and operated by an individual named Nilu U. Patel.

109. During the visit, HBI representatives obtained one (1) pack of purported RAW® KSS from Defendant Nilu U. Patel and/or Patel, Nilu U. Newsstand.

110. HBI representatives sent the particular pack of purported RAW® KSS to HBI headquarters.

111. HBI confirmed through inspection and analysis that the pack of RAW® KSS purchased from Defendant Nilu U. Patel and/or Patel, Nilu U. Newsstand, and its contents, are counterfeit; display counterfeit/infringing versions of the RAW® Trademarks; and falsely embody the RAW® KSS Trade Dress, and are confusingly similar to the registered RAW® Trade Dress.

* * *

112. The foregoing transactions are just the transactions that HBI knows about.

113. Extrapolating from these sales, HBI believes that Defendants' distribution of counterfeit RAW-brand products is on a larger scale and that they also deal in other varieties of counterfeit RAW-brand products.

114. Defendants' counterfeiting appears willful based on the telltale inferior quality and price differences in the Defendants' products.

115. Defendants are retail stores that routinely purchase and deal in rolling paper and companion products. As a result, Defendants know or are familiar with authorized distribution channels for such products, because they must be in order to do business.

116. The particular counterfeit RAW® brand products (rolling papers and rolling trays) necessarily did not pass through HBI's authorized distribution channels.

117. If Defendants knew that the particular products did not come through authorized distribution channels, then they also knew, or were willfully blind to the fact that, the products are counterfeits.

118. All authentic RAW® brand rolling papers are manufactured in, and imported from, Spain, and state on their packaging that they originate in Spain.

119. If Defendants purchased or imported the particular products from any other country, such as China, where counterfeit RAW® rolling papers are known to be sourced, then then the Defendants also knew, or were willfully blind to the fact that, the products are counterfeits.

120. Upon information and belief, Defendants purchased the particular products in pack and box quantities at prices too low to possibly come from HBI or any other authorized source. Thus, Defendants also knew, or were willfully blind to the fact that the products are counterfeits because of pricing factors.

121. Some Defendants demonstrated their knowledge and willfulness through actions observed during the controlled buys described above. Without limitation, some Defendants listed purchased items incorrectly on the receipts; failed to itemize the receipts; or hand wrote the receipts upon request. Upon information and belief, these Defendants engaged in these suspicious behaviors to avoid creating a paper trail and to conceal their liability.

The Harm to HBI

122. Defendants' willful misconduct described above deprives HBI of sales, and therefore, revenues and profits it would have received but for Defendants' counterfeiting.

123. Defendants' counterfeiting also deprives HBI of its legal right to control the quality of products distributed under its RAW brand using the RAW® Trademarks, RAW® KSS Trade Dress, and Registered RAW® Trade Dress.

124. Defendants' counterfeiting jeopardizes the goodwill and value associated with the RAW brand, RAW® Trademarks, RAW® KSS Trade Dress, Registered RAW® Trade Dress, and associated common-law rights and goodwill, which HBI has built up over the past decade.

125. Consumers deceived by Defendants' counterfeit RAW products and packaging have, and will, purchase Defendants' counterfeit products by mistake.

126. Worse, duped consumers may attribute defects in the counterfeit products to HBI (because of HBI's long-standing use of the RAW® Trademarks, Trade Dresses, and other source identifiers on, and in connection with, the popular RAW-brand products). There is a particular concern, given consumer preferences for RAW-brand products because of naturalness and pureness factors.

127. These same consumers are likely to think less favorably of HBI than if they had purchased HBI's high-quality, authentic "natural", "unrefined", or "organic" products, as they no doubt intended to do.

128. HBI has received customer complaints from customers that believed they had purchased RAW-branded products, which HBI believes were counterfeit. These customers have complained, *inter alia*, that the paper feels and rolls differently, and burns differently, in that they burn "hotter." These complaints are associated with the poor quality of counterfeit products.

129. Because of this, HBI has suffered and, unless Defendants' conduct is enjoined by this Court, will continue to suffer, actual economic damages in the form of lost sales, revenues, and profits, and immediate and irreparable harm to HBI's aforementioned trademarks, trade dress, and goodwill, for which it has no adequate remedy at law.

FIRST CLAIM FOR RELIEF

FEDERAL TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)

130. HBI realleges and incorporates by reference each of the above paragraphs as though fully set forth herein.

131. In violation of 15 U.S.C. § 1114, Defendants, independently and in conspiracy with

one another, used in commerce, without HBI's consent, either a reproduction, counterfeit, copy, or colorable imitation of one or more of the registered RAW® Trademarks on and in connection with the sale, offering for sale, distribution, or advertising of counterfeit RAW® brand products, including but not limited to counterfeit RAW® KSS, RAW® rolling papers, and RAW® cigarette rolling trays, which use by Defendants is likely to cause confusion, or to cause mistake, or to deceive consumers.

132. Additionally, in violation of 15 U.S.C. § 1114, Defendants, independently and in conspiracy with one another, used in commerce, without HBI's consent, either a reproduction, counterfeit, copy, colorable imitation, or confusingly similar variation of the Registered RAW® Trade Dress on and in connection with the sale, offering for sale, distribution, or advertising of rolling paper and rolling tray products, including but not limited to counterfeit RAW® KSS, RAW® rolling papers, and RAW® cigarette rolling trays, which use by Defendants is likely to cause confusion, or to cause mistake, or to deceive consumers.

133. Defendants' actions, described above, constitute willful infringement of HBI's exclusive rights in and to the RAW® Trademarks and Registered RAW® Trade Dress, which are registered on the Principal Register, and which HBI owns, has continuously used as source identifiers since the respective marks' dates of first use, and has exclusive nationwide rights to use and enforce.

134. As a direct and proximate result of Defendants' willful misconduct, HBI has suffered irreparable harm to the value and goodwill associated with the registered RAW® Trademarks and Registered RAW® Trade Dress, and its reputation in the industry and among consumers. Unless Defendants are restrained from further infringement of the RAW® Trademarks and Registered RAW® Trade Dress, HBI and consumers will continue to be irreparably harmed.

135. HBI has no adequate remedy at law that could compensate it for the continued, irreparable harm that they are suffering, and will suffer if Defendants' willful misconduct is allowed to continue.

136. As a direct and proximate result of Defendants' willful misconduct, HBI has also suffered monetary damages to the valuable RAW® Trademarks and Registered RAW® Trade Dress, and other damages in an amount not yet known, but to be proved at trial. HBI is also entitled to statutory damages, trebled damages, and/or its reasonable attorneys' fees, at its option.

SECOND CLAIM FOR RELIEF

FALSE DESIGNATION OF ORIGIN AND TRADEMARK/TRADE DRESS INFRINGEMENT (15 U.S.C. § 1125(a))

137. HBI realleges and incorporates by reference each of the above paragraphs as though fully set forth herein.

138. In violation of 15 U.S.C. § 1125(a), Defendants, independently and in conspiracy with one another, and in connection with the counterfeit RAW® KSS, RAW® rolling papers, and RAW® rolling trays described above, used in commerce a slogan, trade dress, word, term, name, symbol, or device, or a combination thereof, or a false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which was and is likely to cause confusion or to cause mistake, or to deceive consumers as to an affiliation, connection, or association with HBI.

139. Without limitation, Defendants have willfully infringed HBI's common-law rights in and to the marks of the RAW® Trademark trademark registrations, which are nationwide in scope. Defendants also willfully infringed HBI's common-law rights in the RAW® KSS Trade Dress, which are nationwide in scope. Defendants also represented to consumers that their counterfeit RAW-brand products were authentic, when they are not; are distributed under the

control and supervision of HBI, when they are not; are made in Alcoy, Spain, when upon information and belief, they are not; and that Defendants are licensed or authorized to use or sell products bearing or embodying the RAW® Trademarks, RAW® KSS Trade Dress, and other source identifiers, when they are not.

140. As a direct and proximate result of Defendants' willful misconduct, HBI has suffered and is suffering irreparable harm to the value and goodwill associated with its common-law rights in and to the RAW® Trademarks and the RAW® KSS Trade Dress, and to HBI's reputation as a distributor of high-quality RAW-brand cigarette paper products.

141. Unless Defendants are restrained from further infringement of the RAW® Trademarks, RAW® KSS Trade Dress, and associated common law rights, HBI and consumers will continue to be irreparably harmed.

142. HBI has no adequate remedy at law that could compensate it for the continued and irreparable harm they have suffered, and will continue to suffer, if Defendants' willful misconduct is allowed to continue.

143. As a direct and proximate result of Defendants' willful misconduct, HBI has suffered damages to the valuable RAW® Trademarks, RAW® KSS Trade Dress, and associated common law rights, along with other damages in an amount not yet known but to be proved at trial.

THIRD CLAIM FOR RELIEF

DECEPTIVE ACTS AND PRACTICES – NEW YORK GEN. BUS. LAW § 349

144. HBI realleges and incorporates by reference each of the above paragraphs as though fully set forth herein.

145. By Defendants' unlawful conduct described above, including without limitation the

unauthorized use of the RAW® Trademarks and Trade Dresses, and the resulting distribution and sale of infringing or counterfeit RAW-brand products, including RAW® rolling papers and RAW® rolling trays, Defendants have engaged in deceptive acts and practices in the conduct of business and furnishing of goods in violation of New York General Business Law § 349. Defendants' conduct is consumer oriented, in that it ultimately affects the interests of individual consumers, who upon information and belief prefer RAW-brand products to competing products for certain factors, such as quality and naturalness, which are not present in Defendants' counterfeit products.

146. Defendants' acts of counterfeiting are materially misleading—especially because the counterfeit products state on their packaging that they are "natural", "unrefined", "organic" and made of the "purest natural fibers" or the "purest natural hemp fibers", when Defendants either know these statements are false or are willfully blind to their falsity, or have no way of verifying them.

147. Defendants' deceptive acts and practices described above are materially misleading.

148. Upon information and belief, Defendants' acts of counterfeiting have actually deceived, and have a tendency to deceive, a material segment of the persons to whom Defendants are selling or otherwise distributing counterfeit RAW-brand products.

149. HBI has been, is, and will continue to be irreparably harmed as a result of Defendants' deceptive acts and practices described above, unless and until Defendants are enjoined from such conduct.

150. HBI has no adequate remedy at law.

151. In light of the foregoing, HBI is entitled to damages or an injunction prohibiting

Defendants from distributing further counterfeit or otherwise infringing RAW-brand products, including counterfeit RAW® KSS and counterfeit RAW® rolling trays; and from displaying, copying, reproducing, or using the RAW® Trade Dresses on or in connection with any counterfeit, infringing, or inauthentic RAW-brand products.

FIFTH CLAIM FOR RELIEF

COMMON-LAW TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, AND UNJUST ENRICHMENT

152. HBI realleges and incorporates by reference each of the above paragraphs as though fully set forth herein.

153. Defendants' misconduct described above constitutes trademark infringement, unfair competition, and unjust enrichment under the common law of New York State. Defendants' acts of selling counterfeit or infringing RAW-brand products, including rolling papers and rolling trays, is likely to cause confusion among members of the public regarding the source and origin of those counterfeit products. Defendants are also "passing off" their counterfeit products as HBI's authentic products. Defendants earn revenue from sales of counterfeit products, which profits they would not have earned but for HBI's reputation and goodwill associated with the RAW® Trademarks, Trade Dress, and other source identifiers.

154. As set forth above, Defendants' counterfeiting is willful, intentional, and done with knowledge that it violates HBI's rights.

155. Defendants thus are committing common-law trademark infringement, unfairly competing with HBI, and unjustly enriching themselves at HBI's expense.

156. HBI has been, is, and will continue to be irreparably harmed because of Defendants' misconduct described above, unless and until Defendants are enjoined from such conduct.

157. HBI has no adequate remedy at law.

158. In light of the above, HBI is entitled to damages and an injunction prohibiting Defendants from distributing further counterfeit or otherwise infringing RAW-brand products, including counterfeit RAW® KSS and counterfeit RAW® rolling trays; and from displaying, copying, reproducing, or using the RAW® Trade Dresses on or in connection with any counterfeit, infringing, or inauthentic RAW-brand products.

PRAYER FOR RELIEF

WHEREFORE, HBI demands judgment against Defendants as follows:

1. For judgment that:

a. Defendants have violated Section 32 of the Lanham Act, 15 U.S.C. § 1114;

b. Defendants have violated Section 43 of the Lanham Act, 15 U.S.C. § 1125(a);

c. Defendants have engaged in deceptive acts and practices in violation of New York General Business Law § 349;

d. Defendants have engaged in trademark counterfeiting, unfair competition, and unjust enrichment in violation of New York common law; and

e. In all instances, Defendants acted in bad faith, willfully, intentionally, and/or in malicious disregard of HBI's rights.

2. For an order preliminarily and permanently enjoining Defendants, their affiliates, subsidiaries, parents, and their respective officers, agents, servants, attorneys, and employees, and all other persons in active concert or participation with them, and mandating that Defendants forever cease and desist and refrain from, anywhere in the world:

a. Manufacturing, making, buying, purchasing, importing, shipping, delivering, advertising, marketing, promoting, offering to sell, selling, or otherwise distributing or disposing of, in any manner, any counterfeit or infringing RAW-brand products, including but not limited to RAW® KSS or RAW® rolling trays, or any rolling papers, rolling trays, or other smoking products or accessories bearing:

i. Infringing or counterfeit versions of the RAW® Trademarks or the RAW® Trade Dresses, which devices appear alone or in combination on authentic packs and boxes of RAW® KSS, other RAW® rolling papers, and RAW® rolling trays distributed by HBI in the United States; or

ii. The false representation that such products are distributed by HBI or otherwise under HBI's control or supervision, or are "Made in Alcoy, Spain," when they are not;

b. Manufacturing, making, buying, purchasing, importing, shipping, delivering, advertising, marketing, promoting, offering to sell, selling, or otherwise distributing or disposing of, in any manner, any purported HBI or RAW-brand products that are not actually produced, imported, or distributed under HBI's control or supervision, or approved for sale in the United States by HBI in connection with the RAW® Trademarks or RAW® Trade Dresses;

c. Committing acts calculated to cause purchasers to believe that counterfeit or infringing RAW-brand products, including counterfeit RAW® KSS or RAW® rolling trays, originate with HBI when they do not;

d. In any way infringing or damaging the RAW® Trademarks and associated common-law rights, or the RAW® Trade Dresses, or the value or goodwill associated therewith;

e. Otherwise unfairly competing with HBI;

f. Attempting, causing, or assisting in any of the above-described acts, including but not limited to, enabling others in the above-described acts or passing on information to allow them to do so;

g. Destroying, altering, deleting, or otherwise disposing of any documents, records, or electronically stored information concerning the manufacturing, making, buying, purchasing, importing, shipping, delivering, advertising, marketing, promoting, offering to sell, selling, or other distribution or disposal of any product that has been, or is intended to be, sold in packaging containing, displaying, or bearing the RAW® Trademarks or the RAW® Trade Dresses; and

h. Forming or causing to be formed any corporation or other entity that engages in the above-described acts.

3. For an order requiring Defendants to cooperate with HBI in good faith in its investigation of counterfeit sales at their retail and wholesale establishments, including, without limitation by:

a. Permitting HBI representatives or their designees to conduct inspections of Defendants' inventories of purported RAW-brand products to determine if any such products are counterfeit or otherwise infringing, and permitting HBI representatives to obtain and retain possession of any such counterfeit products;

b. Responding to reasonable requests for information about Defendants' source(s) of RAW-brand products; and

c. Cooperating with HBI representatives or their designees in their investigations of any source(s) of counterfeit RAW-brand products.

4. For an order:

a. Requiring Defendants to account for and pay over to HBI all profits derived from their wrongful misconduct to the full extent provided for by Section 35(a) of the Lanham Act, 15 U.S.C. § 1117(a);

b. Requiring Defendants to account for and pay to HBI enhanced damages resulting from their wrongful misconduct to the full extent provided for by Section 35(b) of the Lanham Act, 15 U.S.C. § 1117(b);

c. Awarding HBI damages, or statutory damages in an amount not less than $2 million ($2,000,000) per trademark pursuant to Section 35(c) of the Lanham Act, 15 U.S.C. § 1117(c);

d. Awarding HBI damages to the full extent provided by New York state or common law;

e. Awarding HBI its costs of suit, including reasonable attorneys' fees and investigation costs; and

f. Awarding such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

HBI hereby demands a trial by jury on all claims and issues so triable.

Date: May 31, 2017

Respectfully submitted,

By: /s/ Marcella Ballard

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